

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 15-13551-RGS

MARY MUENNING

v.

SHATTUCK SHELTER

ORDER

October 23, 2015

STEARNS, D.J.

Plaintiff Mary Muenning initiated this diversity action against Shattuck Hospital by filing a complaint and a motion to proceed *in forma pauperis*. By Memorandum and Order dated October 13, 2015, plaintiff's *in forma pauperis* motion was granted and she was directed to show cause why this action should not be dismissed for lack of subject matter jurisdiction, or alternatively, file an amended complaint. See Docket No. 5. The Order explained that plaintiff has not identified a cause of action under federal law and, because the parties are not diverse, diversity jurisdiction does not exist to entertain plaintiff's state law claims of defamation and/or assault. Id.

The following day, on October 14, 2015, plaintiff filed a motion for appointment of counsel. See Docket No. 8. One date later, on October 16, 2015, plaintiff filed a show cause response. See Docket No. 9.

In her one-page show cause response, plaintiff states that she is submitting information and documents that she's "compiled to show cause why this action should not be dismissed." See Docket No. 9. Plaintiff states that she "will have a lot more information that [she] can present to [the court] to prove [her] case after [she] subpoena[s] that information from the defendant." Id. She subsequently filed a motion for a subpoena duces tecum. See Docket No. 10.

After careful review of plaintiff's show cause response and accompanying documents,

this Court finds that nothing in those documents provides this Court with subject matter jurisdiction over plaintiff's claims. Plaintiff had a full opportunity to plead this Court's subject matter jurisdiction after receiving the Court's October 13, 2015 Memorandum and Order. Because it does not seem likely that Plaintiff will be able to state additional facts sufficient to provide this Court with subject matter jurisdiction, the Court concludes that it would be futile to allow the pending motions and to permit further amendment.

**ORDER**

For the foregoing reasons, and for all the reasons previously set forth in the October 13, 2015 Memorandum and Order, it is hereby Ordered that

- (1) The motion for appointment of counsel (#8) is DENIED.
- (2) The motion for subpoena duces tecum (#10) is DENIED.
- (2) This action is DISMISSED for lack of subject matter jurisdiction.

SO ORDERED.

/s/ Richard G. Stearns  
UNITED STATES DISTRICT JUDGE